HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION NO. 11292 OF 1996

BETWEEN:

Smt. Guntupalli Anjamma

.....**Petitioner**

And

The Special Commissioner of Land Revenue,
A.P. C.L.R's Office, Hyderabad & others

.....**Respondents**

:: O R D E R::

Counsel for the Petitioners : Shri M.S.N. Prasad

Counsel for the Respondents : Government Pleader for Assignment

Dated: 26.07.2006

The only question, which arises for determination in this petition filed under Article 226 of the Constitution of India for quashing orders dated 31.10.1987 and 18.04.1996 passed by Joint Collector, Ongole, Prakasam District (respondent No.2) and Special Commissioner of Land Revenue, Andhra Pradesh (respondent No.1) respectively, is whether the petitioner was a landless poor on the date of assignment of Ac.2.55 cents of land in Survey Nos. 471 and 461 in Vemula Village vide Mandal Revenue Officer's proceedings No.217/DAR/1397 dated 13.08.1987 and, therefore, cancellation of assignment is legally unsustainable.

A perusal of the record shows that on an application made by her in August 1987 for assignment of land on the premise that she is a landless poor person residing in Village Vemula, the Mandal Revenue Officer issued proceedings No.217/DAR/1397 dated

13-8-1987 for assignment of Ac.2-55 cts. of land to the petitioner. Subsequently, on receipt of complaint made by Smt.Yatam Rani, resident of Village Vemula that the petitioner is not a landless poor person and she had secured assignment by concealing the facts, respondent No.2 directed Assistant Collector, Kandukur to make enquiry into the eligibility of the petitioner and her husband Sri S. Subba Reddy. After enquiry, the Assistant Collector concerned submitted report with the finding that the petitioner was not eligible for grant of land because she is a resident of Village Mundlamur and she was having lands in Villages Mundlamur and Malkondapuram. After considering the report of the Assistant Collector, respondent No.2 passed order dated 31-10-1987 for cancellation of the assignment. Appeal preferred by the petitioner was dismissed by respondent No.1 vide his order dated 18-4-

1996. The relevant portions of that order are as under:

"Regarding the point wehre she is a resident of Vemula (V), it has been reported by the MRO, Mundlamur (M) vide Rc.B/1326/87, dt.9-9-1987 that Smt.G.Anjamma's name was found in Electoral Roll of Mundlamur (V) Gram Panchayat of 1986 under Item No.622 (Door No.1-134). The Mandal Revenue Officer reported that though at the time of enquiry on 9-9-87 by the Asst. Collector, Kandukur she claimed that she is a native of Vemula (V), but on further enquiry it has been ascertained that she is a native of Mundlamur (V). Thus, on this point of nativity, apparently, she is non-resident of Vemula (V) and she has not produced any documentary evidence showing that she is a native of Vemula (V). Regarding ownership of land by her husband, further enquiries have been made and the Collector, Prakasam vide his letter Rc.B2/10770/87, dt.8-2-93 reported that after further verification it is ascertained that Smt.G. Anjamma the petitioner is having Ac.4-00 of land at Mundlamur (V) and her husband is also having Ac.4-00 of land in Mundlamur (V) for which claims were filed under ROR separately. The enquiry report shows that the husband and wife G. Anjamma own Ac.8-00 as follows:

Mundlamur	171/4	Ac.1-80	
	324/1	1-20	In the name of G. Ranganayakulu H/o. G. Anjamma
Vempadu	213/7	Ac.1-00	
		Ac.4-00	
Mundlamur	347/1	Ac.0-10	In the name of Smt.G.Anjamma w/o.Ranganayakulu
	347/3	Ac.3-90	
		Ac.4-00	

Obviously, this land is held by them in the above villages before the land was assigned to them in Vemula (V). Thus, on further enquiry shows that the petitioner was

having lands and they were not landless poor persons and were also non-residents of Vemula (V) when they obtained the land under assignment; they are ineligible for land assignment. Before the lands assigned were cancelled, she was served with show cause notice vide JC's Rc.No.CC/MDR/9-9-87 and she has also filed her explanation dt.9-9-87. She was also given opportunity for personal hearing by Asst. Collector, Kandukur and her statement was recorded. Thus, there is no valid ground to interfere with Joint Collector's order cancelling the patta for this Ac.2-55 of Vemula (V) as it was obtained under mis-representation of facts by the petitioner being ineligible for said assignment."

In the affidavit filed by her, the petitioner has averred that the land comprised in Survey Nos. 171/4, 324/1, 347/1 and 347/3 of Mundlamur Village and Survey No.213/7 of Vempadu Village did not belong to her or her husband on the date of submission of application for assignment and, therefore, respondent No.2 gravely erred in cancelling the assignment made in her favour.

The respondents have relied on the report of the Assistant Collector to justify the order of cancellation. According to them, the petitioner and her husband owned Ac.8-00 of land on the date of assignment and, as such, she could not have been treated as landless poor.

I had heard learned counsel for the parties and perused the record. Ordinarily, this Court would have refrained from interfering with the concurrent finding recorded by respondent Nos.2 and 1 that the petitioner was not eligible and entitled to assignment of land by being treated as a landless poor person, but in the peculiar facts and circumstances of the case, I am inclined to set aside the impugned orders with a direction to respondent

No.2 to pass fresh order in the matter of cancellation of assignment of land made in favour of the petitioner. The reason for adopting this course is that during pendency of the writ petition, the petitioner has filed documents marked as Exs.P1 to P8 along with additional affidavit dated 24.06.2006, to show that she did not own any land on the date of filing application for assignment of land. A perusal of these documents, which are copies of the public records, do show that the same have bearing on the determination of the petitioner's status as a landless poor. Therefore, notwithstanding that the petitioner may not have been properly advised and, on that account, she may have omitted to file these documents along with the writ petition, I am of the opinion that the ends of justice warrant remand of the case to the competent authority for fresh adjudication of the issue relating to the petitioner's status as a landless poor person.

Learned Government Pleader for Assignments made strenuous efforts to persuade the Court to desist from interfering with the impugned orders by pointing out that the petitioner is not only guilty of withholding the material documents but has also alienated the property to third persons, but I am not inclined to go into this controversy at this stage because no document has been produced to establish that the petitioner has transferred the land to third party.

For the reason afore-stated, the writ petition is allowed. Orders dated 31.10.1987 and 18.04.1996 passed by respondent Nos.2 and 1 respectively are quashed with the following directions:

(i) Joint Collector, Ongole shall hold fresh enquiry and determine the issue whether or not the petitioner was landless poor on the date of submission of application as

also the date of assignment of land in her favour. This exercise shall be undertaken and completed by the Joint Collector concerned within a period of four months from the date of receipt of copy of this order.

(ii) Within seven days from the receipt of copy of this order, the Joint Collector concerned shall issue notice to the parties and fix the date of hearing.

(iii) Within one month from the date of receipt of notice, the petitioner may, if so advised, file supplementary representation and evidence to substantiate her stand that she falls within the category of landless poor. Within this period, the concerned revenue authority shall also be entitled to produce evidence to show that she was having land at the time of making application for assignment and, as such, she was not entitled to be treated as a landless poor.

Since the matter is being remanded to the competent authority in view of the additional documents, which have been filed by the petitioner after a delay of almost ten years, I deem it proper to saddle her with cost of Rs.10,000/-. The amount of cost shall be deposited by the petitioner with the Joint Collector, Ongole within a period of one month from today. If she fails to deposit the amount of cost, the writ petition shall be treated as dismissed and it shall not be necessary for the Joint Collector to pass fresh order in the matter.

G.S.SINGHVI, CJ

26.07.2006

svs